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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION

- and -

PACIFIC GAS AND ELECTRIC
COMPANY,

Debtors.

Case No. 19-30088 (DM) (Lead Case)

Chapter 11

(Jointly Administered)

**SECURITIES PLAINTIFFS' STATEMENT
OF ISSUES AND DESIGNATION OF ITEMS
TO BE INCLUDED IN THE RECORD ON
APPEAL**

☒ Affects Both Debtors

☐ Affects PG&E Corporation

☐ Affects Pacific Gas and Electric Company

1 Pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, appellant Public
2 Employees Retirement Association of New Mexico (“PERA” or “**Lead Plaintiff**”), court-
3 appointed Lead Plaintiff, on behalf of itself and the proposed class it represents (the “**Class**”) in
4 the securities class action captioned *In re PG&E Corporation Securities Litigation*, Case No. 18-
5 03509 (the “**Securities Litigation**”) pending in the U.S. District Court for the Northern District of
6 California (the “**District Court**”), together with York County on behalf of the County of York
7 Retirement Fund, City of Warren Police and Fire Retirement System, and Mid-Jersey Trucking
8 Industry & Local No. 701 Pension Fund (collectively, the “**Securities Act Plaintiffs**” and together
9 with Lead Plaintiff, the “**Securities Plaintiffs**”), by and through its undersigned counsel,
10 respectfully submits this statement of issues and designation of items to be included in the record
11 to be presented in connection with Lead Plaintiff’s appeal of the U.S. Bankruptcy Court for the
12 Northern District of California (the “**Bankruptcy Court**”)’s *Order (I) Denying Securities Lead*
13 *Plaintiff’s Motion to Apply Bankruptcy Rule 7023 to Class Proof of Claim and (II) Extending Bar*
14 *Date for Certain Holders of Securities Claims for Rescission or Damages*, dated February 27, 2020
15 [Docket No. 5943] (the “**7023 Order**”) and the related *Memorandum Decision Regarding Motion*
16 *to Apply Rule 7023* [ECF No. 5887] (the “**7023 Opinion**”), by which the Bankruptcy Court denied
17 the *Securities Lead Plaintiff’s Motion to Apply Bankruptcy Rule 7023 to Class Proof of Claim*
18 [Docket No. 5042] (the “**7023 Motion**”).

19 **ISSUES TO BE PRESENTED ON APPEAL**

20 Through the 7023 Order, the Bankruptcy Court denied Securities Plaintiffs’ motion to
21 apply Bankruptcy Rule 7023 to timely filed proofs of claim on behalf of the putative Class (the
22 “**Class Claims**”) in the bankruptcy case of the above-captioned debtors (the “**Debtors**”) despite
23 expressly finding that members of the Class are known creditors of the Debtors that were not
24 provided constitutionally required notice of the deadline to file proofs of claim (the “**Bar Date**”) and that the absence of pre-petition certification of the Class was not relevant to its determination.
25 Instead of granting the 7023 Motion, the Bankruptcy Court extended the Bar Date for Class
26 members to individually file proofs of claim on or before April 16, 2020 (the “**Extended Bar**
27 **Date**”).
28

Lead Plaintiff hereby states the following issues to be presented on appeal:

1. Whether the Bankruptcy Court erred by denying the 7023 Motion.
2. Whether the Bankruptcy Court erred by extending the Bar Date in lieu of granting the Rule 7023 Motion.
3. Whether the Bankruptcy Court erred by establishing April 16, 2020 as the Extended Bar Date given the facts and circumstances of the Bankruptcy Case.
4. Whether the Bankruptcy Court erred in considering and relying upon, over Securities Plaintiff's objection, the *Declaration of Christina Pullo in Support of the Debtors' Supplemental Brief in Response to the Court's Tentative Ruling Regarding Motion to Apply Rule 7023 and Order Settling Deadline* dated February 1, 2020 [ECF No. 5789], submitted after the Bankruptcy Court closed the evidentiary record on the 7023 Motion on January 29, 2020, and despite the prior inconsistent statements of the same declarant in the *Declaration of Christina Pullo (I) Regarding Implementation of the Debtors' Notice Procedures and (II) In Support of the Debtors' Motion to Apply Bankruptcy Rule 7023 to Proof of Claim* dated January 13, 2020 [ECF No. 5370].
5. Whether the 7023 Order properly satisfied the due process rights of members of the Class that were determined to be violated by the Debtors.

DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

Securities Plaintiffs respectfully designate the following items for inclusion in the record on appeal. Each designated item also includes any and all attachments, annexed declarations, proposed orders and/or exhibits/addenda annexed to and referenced within such item.

Items from Case No. 19-30088 (DM); *In re PG&E Corporation et al.*:

Item No.	Description	Date	ECF No.
1.	Order Denying Motion for Preliminary Injunction	8/28/19	Adv. Pro. No. 19-03039, Doc. No. 23
2.	Class Proofs of Claim	10/21/19	Claim Nos. 72193, 72273
3.	Notice of Hearing on Securities Lead Plaintiff's Motion to Apply Bankruptcy Rule 7023 to Class Proof of Claim	12/9/2019	5042

1	4.	Order Approving Stipulation with Respect to Securities Lead Plaintiff's Motion to Apply Bankruptcy Rule 7023 to Class Proof of Claim	12/27/2019	5211
2	5.	Amended Notice of Hearing	12/27/2019	5212
3	6.	Debtors' Objection to Class Representative's Motion to Extend Application of Federal Rule of Civil Procedure 23 to Proof of Claim	1/14/2020	5369
4				
5	7.	Declaration of Christina Pullo (I) Regarding Implementation of the Debtors' Notice Procedures and (II) In Support of the Debtors' Objection to Securities Lead Plaintiff's Motion to Apply Bankruptcy Rule 7023 to Proof of Claim	1/14/2020	5370
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8	8.	Declaration of Benjamin P.D. Schrag (I) Regarding Implementation of the Debtors' Notice Procedures and Supplemental Notice Plan and (II) In Support of the Debtors' Objection to Class Representative's Motion to Extend Application of Federal Rule of Civil Procedures 23 to Proof of Claim	1/14/2020	5371
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11	9.	Declaration of Jeanne C. Finegan (I) Regarding Implementation of the Debtors' Notice Procedures and Supplemental Notice Plan and (II) In Support of the Debtors' Objection to Class Representatives Motion to Extend Application of Federal Rule of Civil Procedure 23 to Proof of Claim	1/14/2020	5372
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15	10.	Opposition of Official Committee of Tort Claimants' to Securities Lead Plaintiff's Motion to Apply Bankruptcy Rule 7023 to Class Proof of Claim	1/14/2020	5373
16				
17	11.	Debtors' Request for Judicial Notice in Support of Debtors' Objection to Class Representative's Motion to Extend Application of Federal Rule of Civil Procedure 23 to Proof of Claim	1/14/2020	5374
18				
19	12.	Declaration of David J. Richardson in Support of Opposition of Official Committee of Tort Claimants' to Securities Lead Plaintiff's Motion to Apply Bankruptcy Rule 7023 to Class Proof of Claim (Dkt. No. 5042)	1/14/2020	5375
20				
21	13.	Securities Lead Plaintiff's Reply in Further Support of Motion to Apply Bankruptcy Rule 7023 to Class Proof of Claim	1/22/2020	5452
22				
23	14.	Declaration of Adam D. Walter of A.B. Data, Ltd. Regarding Standard Procedures and Methods Utilized in Securities Class Action Notice Programs	1/22/2020	5456
24				
25	15.	Declaration of Andrew D. Behlmann, Esq. in Support of Securities Lead Plaintiff's Reply in Further Support of Motion to Apply Bankruptcy Rule 7023 to Class Proof of Claim	1/22/2020	5458
26				
27	16.	DOCKET TEXT ORDER (no separate order issued:) For the hearing on January 29, 2020, at 10 AM, the moving parties on the Motion to Apply FRBP 7023 to Class Proof	1/27/2020	
28				

	of Claim (Dkt No. 5042) will have forty minutes for oral argument. They should reserve a portion of their time for rebuttal. Debtors and the TCC will also have forty minutes to respond, to be shared as their counsel agree. (Montali, Dennis) (Entered: 01/27/2020)		
17.	Tentative Ruling Regarding Motion to Apply Rule 7023 and Order Setting Deadline	2/3/2020	5604
18.	Securities Lead Plaintiff's Supplemental Brief in Support of Motion to Apply Bankruptcy Rule 7023 to Class Proofs of Claim	2/14/2020	5786
19.	Debtors' Supplemental Brief in Response to the Court's Tentative Ruling Regarding Motion to Apply Rule 7023 and Order Setting Deadline	2/14/2020	5787
20.	Supplemental Brief and Reservation of Rights of Official Committee of Tort Claimants' to Securities Lead Plaintiff's Motion to Apply Bankruptcy Rule 7023 to Class Proof of Claim (Dkt. No. 5042)	2/14/2020	5788
21.	Declaration of Christina Pullo in Support of the Debtors' Supplemental Brief in Response to the Court's Tentative Ruling Regarding Motion to Apply Rule 7023 and Order Setting Deadline	2/14/2020	5789
22.	Securities Lead Plaintiff's Motion to Strike Declaration of Christina Pullo in Support of the Debtors' Supplemental Brief in Response to the Court's Tentative Ruling Regarding Motion to Apply Rule 7023 and Order Setting Deadline [ECF No. 5789]	2/18/2020	5814
23.	Ex Parte Motion of Securities Lead Plaintiff Pursuant to B.L.R. 9006-1 Requesting Order Shortening Time for Hearing on Securities Lead Plaintiff's Motion to Strike Declaration of Christina Pullo in Support of the Debtors' Supplemental Brief in Response to the Court's Tentative Ruling Regarding Motion to Apply Rule 7023 and Order Setting Deadline [ECF No. 5789]	2/18/2020	5818
24.	Declaration of Andrew Behlmann in Support of Ex Parte Motion of Securities Lead Plaintiff Pursuant to B.L.R. 9006-1 Requesting Order Shortening Time for Hearing on Securities Lead Plaintiff's Motion to Strike Declaration of Christina Pullo in Support of the Debtors' Supplemental Brief in Response to the Court's Tentative Ruling Regarding Motion to Apply Rule 7023 and Order Setting Deadline [ECF No. 5789]	2/18/2020	5819
25.	DOCKET TEXT ORDER (no separate order issued:) The court will not shorten time to hear a motion to strike (Dkt. Nos. 5814 & 5818) the Pullo declaration, nor require a response before the February 20, 2020 hearing, nor limit the scope of what it will discuss with counsel at the hearing. Each side will have an opportunity to address any questions posed by the court, not just those mentioned in	2/18/2020	

	the docket text yesterday, and to the argue for the position advocated and against the position opposed (Dkt. Nos. 5604, 5786 & 5787). (RE: related document(s) 5814 Motion Miscellaneous Relief filed by Interested Party Securities Lead Plaintiff and the Proposed Class, 5818 Motion to Shorten Time filed by Interested Party Securities Lead Plaintiff and the Proposed Class). (Montali, Dennis) (Entered: 02/18/2020)		
26.	Memorandum Decision Regarding Motion to Apply Rule 7023	2/24/2020	5887
27.	Court's Intentions Re Proposed Order	2/24/2020	5888
28.	Notice Regarding Filing of Proposed Order in Response to the Court's Intentions Regarding Proposed Order	2/26/2020	5902
29.	Order (I) Denying Securities Lead Plaintiff's Motion to Apply Bankruptcy Rule 7023 to Class Proof of Claim and (II) Extending Bar Date for Certain Holders of Securities Claims for Rescission or Damages	2/27/2020	5943
30.	Certificate of Service of Christina Pullo Regarding the Rescission or Damage Proof of Claim Form and the Rescission or Damage Claim Bar Date	3/6/2020	6177

Transcripts of hearings on the 7023 Motion:

Item No.	Description	Date	Docket No.
31.	Transcript of January 29, 2020 Hearing	1/30/2020	5562
32.	Transcript of February 20, 2020 Hearing	2/21/2020	5870
33.	Transcript of February 26, 2020 Hearing	2/27/2020	5927
34.	Transcript of February 27, 2020 Hearing	2/28/2020	5950

Securities Plaintiffs reserve the right to designate additional items for inclusion in the record and/or to restate issues presented on appeal.

CERTIFICATION REGARDING TRANSCRIPTS

Securities Plaintiffs certify, pursuant to Bankruptcy Rule 8009(b)(1) that it is not ordering any transcripts. All transcripts have been prepared, are filed on the docket, and have been designated in the record.

Dated: March 20, 2020

LOWENSTEIN SANDLER LLP
MICHELSON LAW GROUP

By: /s/ Randy Michelson
Randy Michelson (SBN 114095)

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